

26 MAY 1988

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of :

SPUR FEEDING COMPANY,
SPUR INDUSTRIES, INC. AND
J.R. NORTON COMPANY

Order No. 88-16

Respondents

PROCEEDING UNDER SECTION 106 OF THE
COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)
OF 1980, AS AMENDED BY THE SUPERFUND
AMENDMENTS AND REAUTHORIZATION ACT
OF 1986, (42 U.S.C. §9606)

I. JURISDICTION

This Order is issued to SPUR FEEDING COMPANY, SPUR INDUSTRIES, INC. and J.R. NORTON COMPANY ("Respondents") pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), by authority delegated to the undersigned by the Administrator of the United States Environmental Protection Agency ("EPA"). EPA has provided notice of the issuance of this Order to the Gila River Indian Community and the State of Arizona.

The Director of the Toxics and Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health, welfare and the

1 environment because of the release and threatened release of
2 hazardous substances from the area on which Respondents conducted
3 their business operations (the "facility").

4 This Order directs the Respondents to undertake certain
5 actions to protect public health and the environment from this
6 endangerment.

7 II. FINDINGS OF FACT

8 A. Background

9 1. The Spur Industries facility is an area on which
10 Respondents operated a cattle feed lot. Spur Feeding Company and
11 Spur Industries, Inc. have been lessees at the facility and EPA
12 alleges, on information and belief, that J. R. Norton Company
13 owns Spur Industries, Inc. The facility is approximately 300
14 acres and is located north of Highway 87 on the Gila River Indian
15 Reservation, Sacaton, Pinal County, Arizona.

16 2. Structures located on the facility include: a
17 warehouse, one horizontal and four vertical above-ground storage
18 tanks, three below-ground storage tanks, a concrete cattle dip
19 trough, two sheds, and cattle corral areas (including an area
20 where drugs were administered to cattle).

21 3. The four vertical, above-ground storage tanks contain
22 non-viscous brown liquids. The horizontal, above-ground storage
23 tank contains an unidentified viscous brown liquid. There is
24 evidence that the tanks are leaking into an unlined sump, located
25 nearby. Based on field tests, the three underground storage
26 tanks and the four vertical tanks are fuel tanks.

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1 4. The concrete cattle dip trough contains clear liquid
2 with a green suspension. Chemical tests indicate that the liquid
3 is possibly contaminated with pesticides.

4 5. Pesticide containers and pesticide spill areas are
5 present in two open shed areas. Pesticides found in these areas
6 include: three containers of Endrin Emulsifiable Concentrated
7 Poison, three glass bottles of CO-RAL Coumaphos ("Coumaphos"),
8 three paper bags of Coumaphos, and a large broken bag containing
9 a pesticide. These pesticides were identified both through the
10 labels which appeared on the containers, bottles, or bags, and
11 through the use of the EPA pesticide test.

12 6. Present in the area where drugs were administered to
13 cattle were a broken bottle labeled as the pesticide Ronnell
14 (also known as "Korlan"), numerous uncontained drug syringes,
15 small bottles of unidentified liquids, and several soil areas on
16 which pesticides have been spilled. EPA determined the presence
17 of the pesticides in this area by the pesticide label present and
18 the use of the EPA pesticide test.

19 7. Pesticide odors were detected by EPA inspectors inside
20 the warehouse building and outside a railroad box car located
21 near the warehouse.

22 **B. Endangerment**

23 1. Population at Risk: The facility, located near a major
24 Arizona highway and unfenced, is readily accessible to the
25 public. Vehicle access is not restricted. While inspecting the
26 facility, EPA personnel observed several automobiles entering the
27 facility from Highway 87. Evidence of vandalism at the facility

1 indicates that it is an attractive nuisance. Anyone entering the
2 facility risks exposure to hazardous substances. The presence of
3 the unsecured and spilled hazardous substances creates an
4 imminent and substantial endangerment especially to children, who
5 may not recognize the risk. This endangerment is posed to
6 individuals by dermal contact with, or inhalation or accidental
7 ingestion of the spilled pesticides and the contaminated water in
8 the concrete cattle dip trough, and is of immediate concern.

9 2. Substances which present an endangerment include:
10 Endrin, Coumaphos and Ronnell, all of which are hazardous
11 substances.

12 a. Endrin: Endrin is a poisonous and acidic liquid which
13 has been used as an insecticide. Studies show Endrin is highly
14 toxic by ingestion, inhalation or skin absorption. Ingestion of
15 Endrin causes frothing of the mouth, congestion, convulsion,
16 violent muscular contractions, dizziness, weakness, aggressive
17 confusion, lethargy, increase in blood pressure and body
18 temperature, and nausea. Inhalation of Endrin causes nose and
19 throat irritation. Endrin is rapidly absorbed by the skin and
20 causes skin irritation. Prolonged breathing or skin contact may
21 cause the same toxic symptoms as ingestion. Mere contact with a
22 liquid containing Endrin causes eye and skin irritation. Endrin
23 is highly teratogenic, carcinogenic and mutagenic through either
24 inhalation or dermal exposure. Endrin is known to have caused
25 numerous deaths by poisoning. Further, Endrin is a highly toxic
26 substance in the environment which is particularly harmful to
27 birds.

1 b. Coumaphos: Coumaphos is a highly poisonous substance
2 through intraperitoneal, dermal, ocular, and other routes. If
3 ingested, the risk of death is extremely high. CO-RAL also emits
4 toxic fumes of sulfur oxides, phosphorus oxides and chlorine anion.

5 c. Ronnell: Ronnell is acutely toxic and poisonous through
6 intraperitoneal, dermal and other unspecified routes. Ronnell is
7 a cholinesterase inhibitor and an experimental teratogen. When
8 heated to decomposition it emits highly toxic fumes of sulfur
9 oxides, phosphorus oxides and chlorine anion.

10 3. To minimize the potential for accidental human exposure
11 to these hazardous substances, EPA gathered certain containers of
12 the pesticides and placed them temporarily in a locked building
13 on the facility.

14 III. CONCLUSIONS OF LAW

15 1. Spur Feeding Company, Spur Industries, Inc. and J.R.
16 Norton Company, and each of them, are "persons" as defined in
17 Section 101(21) of CERCLA, 42 U.S.C. §9601(21).

18 2. The Spur Industries facility is a "facility" as defined
19 in Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

20 3. Endrin, Coumaphos and Ronnell are "hazardous substances"
21 as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

22 4. The presence of the uncontrolled hazardous substances,
23 as defined in 40 CFR §302.4, at the facility constitutes a
24 "release" or "threatened release" of hazardous substances into
25 the environment as provided in Section 106 and as defined in
26 Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

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9 7. Respondents are jointly and severally liable for
10 conducting the actions provided for in this Order.

IV. DETERMINATIONS

12 Based on the Findings of Fact and Conclusions of Law, the
13 Director, Toxics and Waste Management Division, EPA Region 9, has
14 made the following determinations.

15 1. The release or threatened release of a hazardous
16 substance from the facility may present an imminent and
17 substantial endangerment to the public health, welfare and the
18 environment.

19 2. In order to prevent or mitigate immediate and
20 significant risk of harm to human health and the environment, an
21 immediate removal action must be undertaken to contain and
22 prevent the release and potential release of hazardous substances
23 from the facility.

24 3. The response measures required by this Order are
25 consistent with the National Contingency Plan, 40 Code of Federal
26 Regulations, Part 300, and are necessary to protect human health
27 and the environment.

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- 1 c. Properly treat or dispose of all hazardous substances,
2 including any soil or container contaminated with hazardous
3 substances.
- 4 4. Within twenty (20) days of the completion of the
5 removal actions listed above, Respondents shall:
 - 6 a. Take post-cleanup soil samples, liquid and sludge
7 samples of the concrete cattle dip trough and the sump, and
8 liquid samples of the above-ground and under-ground storage tanks
9 and submit sampling results to EPA;
 - 10 b. If the lab results obtained pursuant to 4(a) above
11 confirm the existence of any residue of any hazardous substances,
12 Respondents shall submit a proposal for the characterization of
13 the nature and extent of any and all hazardous substance
14 contamination remaining at the facility after the removal action.
15 In this proposal, Respondents shall include a schedule for the
16 implementation of the site characterization activities; and
 - 17 c. If the lab results obtained pursuant to 4(a) above
18 confirm the existence of any hazardous substances in the concrete
19 cattle dip trough or/and the tanks, Respondents shall remove the
20 contaminated contents and properly treat or dispose of all
21 hazardous substances including the contaminated sludges.
- 22 5. Within seven (7) calendar days following EPA approval of
23 the site characterization proposal, referenced in 4(b) above,
24 Respondents shall commence the characterization activities in
25 accordance with the approved proposal and time schedule, and
26 submit all results to EPA within thirty (30) days of EPA approval
27 of the site characterization proposal.

1 6. With the exception of fencing and posting the site, no
2 response action may be undertaken without the prior approval of
3 the EPA OSC.

4 VI. COMPLIANCE WITH OTHER LAWS

5 Respondents shall comply with all federal, tribal, state,
6 and local laws and regulations in carrying out the terms of this
7 Order. All hazardous substances removed from the facility must
8 be handled in accordance with the Resource Conservation and
9 Recovery Act of 1976, 42 U.S.C. § 6921, et seq., the regulations
10 promulgated under that Act and EPA's Offsite Disposal Policy.

11 VII. ON-SCENE COORDINATOR

12 EPA has appointed an OSC for the facility who has the
13 authority provided by 40 C.F.R. Part 300, et seq. The OSC for
14 the purposes of this Order is:

15 Dan Shane
16 United States Environmental Protection Agency
17 Region 9
18 215 Fremont Street
19 San Francisco, California 94105
20 (415) 974-8361

21 VIII. SUBMITTALS

22 All submittals and notifications to EPA provided
23 pursuant to this Order shall be made to:
24 Jeff Zelikson
25 Director, Toxics and Waste Management Division
26 United States Environmental Protection Agency
27 215 Fremont Street
28 San Francisco, California 94105
29 The Director, Toxics Waste and Management Division, or his
30 designee, shall communicate all EPA approvals and decisions
31 formatters covered by this Order.

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1 IX. ACCESS

2 Respondents shall provide EPA employees and other EPA
3 representatives with complete access to the facility at all
4 times. Nothing in this Order limits any access rights that EPA
5 or other agencies may have pursuant to law.

6 X. ENDANGERMENT DURING IMPLEMENTATION

7 The Director, Toxics and Waste Management Division, EPA
8 Region 9, or the OSC may determine that acts or circumstances
9 (whether related to or unrelated to this Order) may endanger
10 human health or welfare or the environment and may order the
11 Respondents to stop further implementation of this Order until
12 the endangerment is abated.

13 XI. GOVERNMENT NOT LIABLE

14 The United States Government and its employees and other
15 representatives shall not be liable for any injuries or damages
16 to persons or property resulting from the acts or omissions of
17 Respondents, their employees or other representatives caused by
18 carrying out this Order. For the purposes of this Order, the
19 United States Government is not a party to any contract with the
20 Respondents.

21 XII. NONCOMPLIANCE

22 A. A willful violation or failure or refusal to comply
23 with this Order may subject Respondents to a civil penalty of up
24 to \$25,000 per day in which the violation occurs or failure to
25 comply continues, pursuant to the provisions of Section 106(b)(1)
26 of CERCLA, 42 U.S.C. §9606(b)(1). Failure to comply with this
27 Order without sufficient cause may also subject Respondents to

1 punitive damages of up to three times the total costs incurred by
2 the United States for site response pursuant to Section 107(c)(3)
3 of CERCLA, 42 U.S.C. § 9607(c)(3).

4 B. EPA may take over the removal action at any time if EPA
5 determines that Respondents are not taking appropriate action.
6 EPA may order additional actions it deems necessary to protect
7 public health or welfare or the environment.

8 XIII. OPPORTUNITY TO CONFER

9 Respondents may request a conference with the Director,
10 Toxics and Waste Management Division, EPA Region 9, or his staff
11 to discuss the provisions of this Order. At any conference held
12 pursuant to Respondents request, Respondents may appear in person
13 or by counsel or other representatives for the purpose of
14 presenting any objections, defenses or contentions which
15 Respondents may have regarding this Order. If Respondents desire
16 such a conference, Respondents must make a request orally within
17 24 hours of receipt of this Order, and confirm the request in
18 writing immediately. In the event Respondents request a
19 conference, such conference will not delay or alter the effective
20 date of this Order.

21 XIV. PARTIES BOUND

22 This Order shall apply to and is binding upon the
23 Respondents, their officers, directors, agents, employees,
24 contractors, successors, and assigns.

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1 XV. NOTICE OF INTENT TO COMPLY

2 Immediately upon receipt of this Order, Respondents shall
3 orally inform one of the contact persons listed below of their
4 intent to comply with the terms of this Order. The oral notice
5 shall be confirmed within two (2) days by written notice to the
6 Director. Failure to timely notify EPA of the Respondents'
7 intent to comply will be construed by EPA as a refusal to comply.

8 XVI. NOTICE TO INDIAN COMMUNITY AND STATE

9 Notice of the issuance of this Order has been provided to
10 the Gila River Indian Community and the State of Arizona. EPA
11 intends to consult with these entities as appropriate.

12 XVII. EFFECTIVE DATE

13 Notwithstanding any conferences requested pursuant to the
14 provisions of this Order, this Order is effective on the date of
15 execution by the Director, Toxics and Waste Management Division,
16 EPA Region 9.

17 IT IS SO ORDERED on this 26th day of May, 1988.

18 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

19
20 by: Jeff Zelikson
21 Jeff Zelikson
22 Director, Toxics and Waste Management Division
23 EPA, Region 9

24 Contacts:
25 Dan Shane
26 On-Scene Coordinator
27 Field Operations Branch, T-4-9
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